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FROM THE BARONESS NORTHOVER
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21 December 2011

Dear Colleagues,

I am writing in response to the questions raised in the Committee debate on the Health and Social Care Bill on 15th December. I would like to thank all Peers who took part in what was an excellent debate. Whilst I hope this letter offers a response on a number of points raised, let me repeat that this is an area we have committed to consider further, and I look forward to further discussions on this matter.

Let me start with an issue which I feel is central to this debate – that of the independence of Healthwatch England. Lord Warner made a number of points with regard to the ability of Healthwatch England to be a ‘campaigning’ organisation. It is important to be aware that we do not propose the establishment of Healthwatch England to give the Care Quality Commission – or the Secretary of State, the NHS Commissioning Board or a range of other bodies – an easy ride. We fully expect Healthwatch England to raise what at times may be awkward, difficult questions with respect to health and social care services, and to be able to do this publicly.

As I made clear in the debate, I would like to clarify that if an area is of concern to Healthwatch England, it is able to:

- give advice to the Secretary of State, the NHS Commissioning Board, Monitor, local authorities, and the Care Quality Commission (clause 178, new section 45A (3) to (6));
- include this in its annual report (clause 178, new section 45B(1));

- publish other reports (clause 178, new section 45B(3));
- include in its annual report the response the Bill requires these organisations to provide to Healthwatch England (clause 178, new section 45A(4) to (6) and 45B(1)); and
- also include its view on how organisations have responded to its advice in its report (clause 178, new section 45B(1)).

In addition, as long as it falls within its statutory remit, there would be nothing to stop Healthwatch England giving its support to the views of others in exercising functions, such as those of patient groups, or even, as Lord Warner suggested, a newspaper. This would be at the discretion of Healthwatch England who would be primarily responsible for exercising the functions in question. I hope this provides reassurance.

Lord Low made an important point in relation to HealthWatch England publishing information that relates to the private affairs of the individual and requested clarification on why information that relates to the private affairs of an individual should be published at all.

First, may I stress that the Government agrees it is right that the private affairs of an individual are indeed treated as private. As I mentioned in the debate, Healthwatch England will of course need to comply with the Data Protection Act and other applicable law relating to information obligations.

However, an amendment requiring Healthwatch England to exclude from its published reports all matters relating to the private affairs of an individual would be too wide. It would mean, for example, that reports could not include matters concerning the provision of healthcare to individuals, even where the individuals in question could not be identified because the information was anonymised, as the matters would be matters related to the private affairs of individuals. It would also prevent Healthwatch England from reporting on issues, even where the individual had consented to the information being published and indeed was keen that it be published. I am sure Noble Lords will agree that this would be a major obstacle to Healthwatch England's effectiveness.

In its role in providing advice and information on the views of healthcare service users, Healthwatch England will be advising on patients' and others' views on their needs for, and experiences of, those services, and on standards of provision. In line with this, it is imperative that Healthwatch England is also able to cover in its reports matters relating to the provision of health care. New section 45B(4) ensures that, so far as practicable, this is not done in a way that would or might seriously and prejudicially affect individuals' interests (for example by identifying them). I hope that this may clarify what otherwise may have seemed a concerning provision.

Finally, I welcomed the important points made by the noble Baroness Cumberlege and Baroness Wheeler about the independence of Local Healthwatch, by way of having the rights, powers and functions necessary to work flexibly, including the requirement to be cost-effective and efficient. As I explained in Committee, we are keen to ensure the Bill provides sufficient flexibility for Local Healthwatch to work with and for their local communities and we will consider how best this can be done including looking at alternatives to the statutory body corporate model.

I trust you will find this letter helpful and would be happy to discuss the issues further. I am copying this letter to all Peers who spoke in the debate and will place a copy in the Library.

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BARONESS NORTHOVER